

## AMENDMENT SHEET 1

ORDINANCE NO. 18-\_\_\_\_

**Amendment Name:** Executive recommendation for opt-in applicability

**Brief Description:** This amendment would implement the Executive recommendation. It would provide for an opt-in provision to make the code amendments contained in the ordinance retroactive in applicability for land disturbing activity permits submitted prior to the effective date of the ordinance between January 11, 2016, and the effective date of the ordinance.

**Affected Ordinance Sections:** Sections 1, 10, and 11

### **New Findings to Add:**

Page 4, Line 35, insert the following finding:

4. This ordinance will add a new section SCC 30.63B.025 to allow vested land disturbing activity permit applications to opt-in to streamlined provisions contained in this ordinance that allow grading activities within two feet of property lines.

Page 4, Line 38, insert and adjust and renumber other findings accordingly:

H. Existing provisions that authorize grading activities within two feet of property lines present a very high burden to applicants since the regulations require permission be obtained from adjoining property owners. The County received comments from applicants that in many instances sufficient agreement with adjoining property owners was not reached or that negotiations with adjoining property owners often required expensive agreement proposals to obtain permission. The intent of the existing regulations is to make grading within two feet of property lines possible for applicants while protecting the interests of the adjoining property owners. The existing regulations are not operating as intended. The proposed regulations to streamline the process for allowing grading activities within two feet of property lines will create an equal or better outcome for all parties by achieving the original intent of allowing flexibility in development while protecting the integrity of adjacent land. To ensure that the development proposals under review by the County may take immediate benefit of the streamlined process for allowing grading activities within two feet of property lines, the County hereby intends to make Sections 4 through 5 retroactive.

### **Modify Existing Ordinance Section and Add New Ordinance Section:**

Page 8, delete:

**Section 10.** Severability and savings. If any section, sentence, clause, or phrase of this ordinance shall be held to be invalid or unconstitutional by the Growth Management Hearings Board, or a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance. Provided, however, that if any section, sentence, clause, or phrase of this ordinance is held to be invalid by the Board or court of competent jurisdiction, then the section, sentence, clause, or phrase in effect prior to the effective date of this ordinance shall be in full force and effect for that individual section, sentence, clause, or phrase as if this ordinance had never been adopted.

And insert:

**Section 10.** A new section is added to chapter 30.63B of the Snohomish County Code to read:

**30.63B.025 Allowing a complete land disturbing activity permit application to opt-in to amended provisions adopted by Amended Ordinance No. 18-\_\_\_\_.**

(1) An applicant with a land disturbing activity permit within unincorporated Snohomish County, determined to be complete between January 11, 2016, and the effective date of Amended Ordinance 18-\_\_\_\_, may voluntarily submit a signed waiver to the department requesting the permit application be reviewed under amended provisions for grading activities within two feet of a property line (SCC 30.63B.110 and 30.63B.200) adopted by sections 4 and 5 of Amended Ordinance No. 18-\_\_\_\_. All other development regulations in effect as of the date of the original permit application was determined to be complete shall apply.

(2) Applicants submitting a signed waiver shall have 12 months from the effective date of Amended Ordinance 18-\_\_\_\_ to submit revised construction plans.

(3) Revised construction plans submitted under this section shall require:

(a) Public notice under chapter 30.70 SCC unless the original land disturbing activity permit application was exempt from public notice requirements; and

(b) Payment of any applicable fees.

(4) The department shall include in its written decision for a Type 1 permit or staff recommendation for Type 2 permit a statement explaining that revised provisions for grading activities within two feet of a property line (refer to SCC 30.63B.110 and 30.63B.200) established under Amended Ordinance No. 18-\_\_\_\_ apply.

(5) This section is repealed effective 12 months from the effective date of Amended Ordinance No. 18-\_\_\_\_.

**Section 11.** Severability and savings. If any section, sentence, clause, or phrase of this ordinance shall be held to be invalid or unconstitutional by the Growth Management Hearings Board, or a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance. Provided, however, that if any section, sentence, clause, or phrase of this ordinance is held to be invalid by the Board or court

of competent jurisdiction, then the section, sentence, clause, or phrase in effect prior to the effective date of this ordinance shall be in full force and effect for that individual section, sentence, clause, or phrase as if this ordinance had never been adopted.

**Council Disposition:** \_\_\_\_\_ **Date:** \_\_\_\_\_